

1977 S.C. Op. Atty. Gen. 305 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-381, 1977 WL 24718

Office of the Attorney General

State of South Carolina

Opinion No. 77-381

December 2, 1977

*1 TO: Chief William R. Walker
Chief of Police
Hodges, South Carolina

QUESTIONS PRESENTED:

1. If a traffic violation occurs within the town limits of Hodges and is investigated by State or County officers, who receives the fine or bail or bond forfeiture, the County, the State, or the Town of Hodges?
2. Does the Town of Hodges have authority to establish the maximum speed limits on streets and State highways within the town limits?

AUTHORITIES:

Section 56-5-6200, Code of Laws of South Carolina, 1976;

Section 56-5-1530, Code of Laws of South Carolina, 1976;

Section 56-5-1540, Code of Laws of South Carolina, 1976;

Section 56-5-1560(b), Code of Laws of South Carolina, 1976.

DISCUSSION:

In response to the question concerning which governmental entity, the State, County, or town, receives the fine, bail or bond forfeiture, imposed for the violation of a traffic regulation within the town limits of Hodges when the investigation of such is conducted by State or County officers, please be advised that Section 56-5-6200, Code of Laws of South Carolina, 1976, states in regard to the disposition of fines and penalties imposed for violations of those offenses indicated in Chapter 5, the Uniform Act Regulating Traffic on Highways that:

‘All fines collected as penalties for violation of this chapter and bond or bail forfeitures shall be paid over by the magistrate or person collecting them to the county treasurer of the county in which such fines and bond or bail forfeitures are collected, except that when such fines or bond or bail forfeitures are collected by municipal police officers and municipal courts the amounts so collected shall be paid over to the city treasurer of the municipality.’

As to the second question concerning whether the Town of Hodges has the authority to set the maximum speed limits on streets and State highways within the town limits, please be advised of the provisions of Sections 56-5-1530 and 56-5-1540, Code of Laws of South Carolina, 1976, which indicate that:

‘(a) Establishing speed zones—Whenever the State Highway Department shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the

conditions found to exist at any intersection or other place or upon any part of the State highway system, the Department may determine and declare a reasonable and safe maximum limit thereat, which shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

*2 (b) Setting maximum limits in State highway extensions in urban districts—The State Highway Department shall determine the proper maximum speed for all State primary highway extensions into and through urban districts and shall declare a reasonable and safe maximum speed limit thereon which may be greater or less than the maximum speed otherwise permitted under this article for an urban district and such maximum speed limits shall be effective at all times during hours of darkness and at other times as may be determined when appropriate official signs giving notice thereof are erected upon such street or highway.' (Section 56-5-1530)

'(a) Establishing speed zones—Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

(1) Decreases the limit at intersections; or

(2) Increases the limit within an urban district but not to more than sixty miles per hour during daytime or fifty-five miles per hour during nighttime; or

(3) Decreases the limit outside an urban district, but not to less than thirty-five miles per hour.

(b) Setting maximum limits on arterial streets—Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this article for an urban district.

(c) Signs—Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(d) Approval of altered limits by Department—Any alteration of maximum limits on State highways or extensions thereof in a municipality by local authorities shall not be effective until such alteration has been approved by the State Highway Department.

(e) Limitations on alterations—Not more than six such alterations as authorized above shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten miles per hour.' (Section 56-5-1540)

Also, Section 56-5-1560(b) states that insofar as minimum speed limits are concerned that:

'Whenever the State Highway Department or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Department or local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, when appropriate signs giving notice thereof are erected along the part of the highway for which a minimum speed limit is established. Also any minimum speed limit adopted by a municipality for a section of the State highway within the municipality shall not be effective until such minimum speed has been approved by the State Highway Department.'

CONCLUSION:

*3 Based on the above statutory authority, the Town of Hodges is entitled to receive only such fines, or bail or bond forfeitures, as are collected by municipal police officers and municipal courts. The State Highway Department is given the authority to establish maximum speed limits for all State primary highway extensions into and through the Town of Hodges. However, the Town would be permitted to alter those established speed limits within their jurisdiction as indicated in Section 56-5-1540(a), supra, such alteration being subject to approval by the State Highway Department. As to arterial streets, the Town would have the authority to declare the maximum speed limit on such streets within their jurisdiction based upon proper investigation. Both the State Highway Department and the Town would have authority to establish minimum speed limits but any such adoption by the Town for a section of the State highway within the Town would not be effective until approved by the State Highway Department.

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